

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN W. PEROTTI,

Plaintiff,

Case No. 05-60172

v.

Hon. John Corbett O'Meara

MS. MARLBERRY, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S
MOTION FOR RELIEF FROM JUDGMENT**

Before the court is Plaintiff's motion for relief from judgment, filed April 12, 2007.

Defendants Northeast Ohio Correctional Center and Warden Tapia filed a response on April 24, 2007.

As of April 16, 2007, the Court of Appeals for the Sixth Circuit has construed Plaintiff's June 16, 2006 motion for findings of fact and to amend the judgment as a notice of appeal. See Docket No. 69. Because the appeal is pending, this court is divested of jurisdiction to consider Plaintiff's motion for relief from judgment. See Pittock v. Otis Elevator Co., 8 F.3d 325, 327 (6th Cir. 1993).

Accordingly, IT IS HEREBY ORDERED that Plaintiff's April 12, 2007 motion for relief from judgment is DENIED.

s/John Corbett O'Meara
United States District Judge

Dated: July 10, 2007

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, July 11, 2007, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager